

REMARKS

These remarks are responsive to the office action dated January 27, 2005. Claims 1-47 are pending in the application with independent claims 1, 15, 20, and 34. Claims 1, 15, 31, and 34 have been amended. Claims 1, 15, and 34 were amended to accommodate examiner's rejections. The support for the amendments is found on page 5, line 9 to page 6, line 2 of the Applicant's specification. Claim 31 was amended to add a period at the end of the claim.

In the January 27, 2005 office action, the examiner rejected claims 1-7, 9-17, 19, and 34-47 under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The applicant amended claims 1, 15, and 34 to accommodate examiner's rejection. Thus, this rejection of claims 1-7, 9-17, 19, and 34-47 is now moot. The examiner is respectfully requested to reconsider and withdraw this rejection.

In the office action, the examiner rejected claims 1-47 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,012,046 to Lupien *et al.* ("Lupien") in view of U.S. Patent Publication No. 2002/0010672 A1 to Waelbroeck ("Waelbroeck"). This rejection is respectfully traversed.

MPEP 2143 states the following:

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP 2143.

Thus, in order to establish that claims 1-47 are obvious in light of a combination of Lupien and Waelbroeck, all three factors listed above must be established. The applicant

respectfully submits that the combination of Lupien and Waelbroeck does not establish a prima facie case of obviousness with respect to claim 1-47. This is because neither Lupien nor Waelbroeck teach or suggest all elements of claims 1-47 and that upon combination of the references, the invention recited in the claims is not realized.

In the office action, the examiner rejected claim 1 under 35 U.S.C. 103(a) as being unpatentable over the combination of Lupien and Waelbroeck.

Claim 1 recites a method of directing a securities trade order to a particular financial market, the method comprising: receiving trade execution quality preference information supplied by a user; comparing said user supplied trade execution quality preference information to at least one statistical measure for each of a plurality of market centers; and routing said order to one of said plurality of market centers as a function of said comparison.

Lupien describes a network utilizing satisfaction density profile with price discovery features. The satisfaction density profile characterizes trader's degree of satisfaction to a trade at any or all prices and sizes. (See, Col. 3, line 66 to Col. 4, line 2). The density profile is based on prices of securities, quantity of securities, and satisfaction density values (numbers between zero and one; zero being equivalent to no satisfaction and one being equivalent to a total satisfaction with a specific trade). (See, FIG. 2; Col. 4, lines 8-21). Once, trader's satisfaction density profiles are complete, a central matching controller anonymously matches traders' buy and sell orders. (See, FIG. 2; Col. 4, lines 27-30; Col. 6, lines 14-22; and Col. 7, lines 15-53).

As the examiner admitted in the office action, Lupien does not teach or suggest claim 1's comparing and routing steps. However, Lupien also does not teach or suggest a trade execution quality preference information, as recited in the first receiving step of claim 1. The applicant's

specification defines the trade execution quality preference information using one or more execution quality parameters. The parameters include an execution at/wirhin best bid and offer, a national best bid and offer, a price improvement, a speed of execution, a liquidity enhancement, a size improvement, a performance above a national average price, custom measures, and others. (See, applicant's specification, page 6, lines 3-12). Each parameter is weighted by a user to determine which market center should receive the user's order. Hence, a qualitative decision is made with respect to a routing of the user's order to a specific market center. This is contrary to Lupien's satisfaction density profile that quantitatively decides when a trade should occur. For example, the decision to trade can be made based on a specific price for a security or quantity of securities. (See, FIG. 2, Col. 7, lines 29-47). In contrast, the present invention, as recited in claim 1, selects a specific market center in which to execute the user's order based on the trade execution quality preference information. Thus, Lupien does not describe, teach or suggest claim 1's trade execution quality preference information.

Further, Lupien describes a network where buy and sell orders are matched to effectuate a trade. A center matching controller anonymously performs the matching. For example, when a sell order is received, Lupien's controller finds a buyer for the order. However, Lupien's controller does not determine which market center should be chosen for the trade. This is in contrast to the recitation of claim 1. Claim 1 recites a step of routing the order to one of a plurality of market centers as a function of a comparison between the user's trade execution quality preference and at least one statistical measure for each of the plurality of market centers. Hence, the present invention allows for a selection of a market center and not a buyer/seller for

the order. This is contrary to the description of Lupien's network. Thus, Lupien does not describe all elements of claim 1.

Waelbroeck describes a method for directing and executing certified trading interests. The method allows for handling of market participant data and selecting a specific market participant out of a number of market participants to effectuate a trade. (See, Pars. 0012, 0024, 0076). The market participant is defined as:

any person or firm with the ability to trade securities; examples of market participants include broker-dealers, buy-side firms, sell-side firms, and private investors trading on electronic communication networks (ECNs). "Buy-side" firms are those that buy new issues of securities, as distinct from broker-dealer firms that "sell" such new issues. (See, Par. 0004).

The above is similar to the present Application's definition of a user. The Application's specification states that the user may be "an individual investor, a broker/dealer, an institutional investor, a broker/dealer trading desk, or some other party interested in trading a security." (See, applicant's specification, page 2, lines 7-8). Hence, the user, as defined by the applicant's specification and recited in claim 1, is different from a market center. Thus, Waelbroeck's market participant cannot be compared to claim 1's market center.

Waelbroeck recites a comparison of data relating to market participants, i.e., users. The data relates to buying and/or selling of securities. This is in contrast to claim 1's recitation of comparing a user supplied trade execution quality preference information to at least one statistical measure for each of a plurality of market centers. Waelbroeck does not compare user's data to market center data. Instead, it compares one market participant data (i.e., one user's data) to another market participant data (i.e., another user's data). Hence, Waelbroeck does not disclose, teach or suggest a comparing step of claim 1.

Further, Waelbroeck describes routing market participant's orders to other market participant to effectuate a trade. Such routing is based on the market participant data or other statistical information (See, Par. 0076). This is in contrast to claim 1's recitation of routing the order to one of the plurality of market centers as a function of a comparison between the user's trade execution quality preference information to at least one statistical measure for each of a plurality of market centers. Waelbroeck's method allows market participants (i.e., users) to find other market participants (i.e., users) for trading purposes based on specific data relating to the other market participants. This is contrary to claim 1 that recites routing of user's order based on a comparison between a user's information (i.e., trade execution quality preference information) and market centers information (i.e., statistical measures relating to the market centers). Further, Waelbroeck's method routes the user's order to other users rather than to market centers, as recited in claim 1. Also, Waelbroeck does not describe routing of the user's order to a market center based on a comparison between the market center information and the user's information. As such, Waelbroeck does not describe, teach or suggest the routing step of claim 1.

Hence, neither Lupien nor Waelbroeck describe each and every element of claim 1. Therefore, claim 1 should be allowed.

Even if one combined Lupien and Waelbroeck, the invention of claim 1 is not realized. As stated above, Lupien discloses a network that allows matching of users' buy and sell orders based on users' satisfaction density profiles. The profiles are based on prices of securities, number of securities and satisfaction density values. Hence, Lupien's network matches users' buy and sell orders based on a quantitative rather than qualitative factors. Further, Lupien does

not disclose comparing of the user information to a statistical information relating to a plurality of market centers, and routing of the user's order to a market center based on the comparison.

Waelbroeck describes a method of comparing market participants information to other market participant information to effectuate a buy/sell transaction. The comparison allows for selection of specific market participants (i.e., users) to effectuate a desirable trade. However, Waelbroeck does not disclose a comparison of an information relating to user preferences to an information relating to a plurality of market centers. Further, Waelbroeck does not describe routing a user's order to a market center based on the comparison.

As such, a combination of Lupien and Waelbroeck produces a network that matches buyers and sellers, i.e., market participants, based on their statistical information, such as price and quantities of traded securities, to effectuate buy/sell transactions. However, the combination does not describe a comparison of the user's preferences information to information relating to market centers nor routing of the user's order to a specific market center based on the comparison.

Thus, the combination of Lupien and Waelbroeck does not support a *prima facie* case of obviousness as suggested by the examiner. Therefore, the examiner's rejection of claim 1 is respectfully traversed. The examiner is respectfully requested to reconsider and withdraw his rejection of claim 1.

Claims 2-14 depend on the independent claim 1. As such, claims 2-14 are patentable over the combination of Lupien and Waelbroeck for at least the same reasons presented above with respect to claim 1. Therefore, this rejection is traversed. The examiner is respectfully requested to reconsider and withdraw his rejection of claims 2-14.

Independent claims 15, 20, and 34 are patentable over the combination of Lupien and Waelbroeck for at least the same reasons stated above with respect to claim 1. Thus, the rejections of claims 15, 20, and 34 are traversed. Specifically, neither Lupien nor Waelbroeck disclose, teach or suggest all elements of claims 15, 20, and 34. These elements include a user's trade execution quality preference information, a comparison of the user's trade execution quality preference information to at least one statistical measure for each of a plurality of market centers, and a routing of user's order to one of the plurality of market centers as a function of the comparison. Thus, the examiner is respectfully requested to reconsider and withdraw his rejections of claims 15, 20, and 34.

Claims 16-19, 21-33, and 35-47 depend of on the independent claims 15, 20, and 34, respectively. As such, claims 16-19, 21-33, and 35-47 are patentable over a combination of Lupien and Waelbroeck for at least the same reasons stated above with respect to claims 15, 20, and 34. Hence, these rejections are traversed. The examiner is respectfully requested to reconsider and withdraw his rejections of claims 16-19, 21-33, and 35-47.

No new matter has been added.

The claims currently presented are proper and definite. Allowance is accordingly in order and respectfully requested.

Correspondence and Fees

In the event that there are fees necessitated by this response, authorization is hereby given to charge Deposit Account No. 03-3839. Please address all correspondence to Intellectual Property Docket Administrator, Gibbons, Del Deo, Dolan, Griffinger & Vecchione, One Riverfront Plaza, Newark, NJ 07102-5497. Should there be any questions or other matters that may be resolved by a telephone call, the examiner is invited to contact the applicants' undersigned attorney at the number below. Any communications should be sent directly to him at the number below.

Respectfully submitted,



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